

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KELLY JAMES,

Plaintiff,

v.

CHICAGO POLICE OFFICER M.R.
CHERNIK, STAR # 3491,
CHICAGO POLICE OFFICER P. R.
PERAINO, STAR # 15396, individually and as
employees/agents for the CITY OF
CHICAGO, a Municipal Corporation,

Defendants.

CASE NO.

JUDGE:

MAGISTRATE:

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, KELLY JAMES, by and through her undersigned attorneys and in complaining of Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR 3491, and CHICAGO POLICE OFFICER PERAINO, STAR 15396 and states as follows:

JURISDICTION AND PARTIES

1. This is an action for civil damages brought pursuant to 42 U.S.C. § 1983 for the deprivation of Plaintiff's Constitutional rights. This Court has jurisdiction of the matters set forth herein pursuant to 28 U.S.C. §§ 1331 and 1343.

2. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b) because the facts which give rise to the claims asserted herein occurred within the Northern District of Illinois.

3. Plaintiff is an individual who at all times relevant hereto was living in Cook County, Illinois.

4. Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR # 3491, and CHICAGO POLICE OFFICER PERAINO, STAR # 15396 ARE, AND AT ALL TIMES MATERIAL HERETO WERE Chicago Police Officers employed by the City of Chicago acting in the capacity of a sworn law enforcement official. The officers are sued in their individual capacities.

FACTUAL SUMMARY

5. On or before October 4, 2013, at approximately 20:10 hours., Plaintiff was operating and driving her vehicle at or near 5933 N. Northwest Highway, Chicago, Illinois.

6. On or before October 5, 2013, at approximately 20:10 hours Plaintiff arrived at a property rented by the Plaintiff and discovered a large Police presence.

7. Concerned and alarmed, the Plaintiff made an attempt to inquire into what was taking place by approaching several police officers.

8. Plaintiff was told in a loud and aggressive manner by Officer CHERNIK of the Chicago Police Department, to “stay out of this” and that “it was none of her business”.

9. When Plaintiff attempted to explain that she was the lessor of the residence being searched, she was advised that the premises were to be searched for one Eduardo Cruz, and was then ordered to either leave or face arrest.

10. When Plaintiff continued to ask for an explanation, she was violently and suddenly forced to the ground by CHERNIK and PERAINO and placed under arrest.

11. When Plaintiff was forced to the ground, her arms and wrists were severely injured, and when handcuffs were placed on her wrists, she incurred a severe wrist injury.

12. Plaintiff advised the arresting officers that her wrists and arms were severely injured, and the officers refused to listen to her pleas.

13. After Plaintiff continued to plea for medical assistance, she was finally transported to Old Lady of Resurrection medical facility, where she received medical assistance for her injuries.

14. When Plaintiff was released from custody, and upon re-entering the premises that were subject to search, Plaintiff discovered that the property was severely damaged, with furniture, carpeting, walls and other areas permanently rendered damaged by the Officers who performed the search.

15. In the course of their interactions with Plaintiff, Defendants needlessly and aggressively took unnecessary physical steps to detain Plaintiff. In doing so, Defendants caused serious bodily harm to Plaintiff, including a severe contusion of her forearm, and aggravation of a pre-existing physical condition with Plaintiff's neck.

16. Defendants' conduct, among other things, was in violation of the Plaintiff's right to be free from unreasonable searches and seizures granted by the Fourth Amendment of the United States Constitution.

COUNT I
42 U.S.C. § 1983: False Arrest/Unlawful Detention

17. Plaintiff re-alleges and incorporates paragraphs 1-16 as though fully stated herein.

18. As set forth herein, the Defendant Officers falsely arrested and unlawfully detained Plaintiff without justification and without probable cause.

19. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others, and specifically, the rights of the Plaintiff.

20. As a result of this wrongful infringement of Plaintiff's rights, Plaintiff suffered damages including but not limited to physical harm, mental distress and mental anguish.

COUNT II
State Law Claim: Malicious Prosecution

21. Plaintiff re-alleges and incorporates paragraphs 1-16 as though fully stated herein.

22. Plaintiff was improperly subjected to judicial proceedings for which there was no probable cause. The judicial proceedings were instituted and continued maliciously, resulting in injury.

23. Defendants accused Plaintiff of criminal activity knowing those accusations to be without probable cause and they made written and other statements with the intention of exerting influence to institute and continue judicial proceedings.

24. Statements of Defendants regarding Plaintiff's alleged culpability were made with knowledge that the statements were false and misleading.

25. The misconduct described in this Count was undertaken with malice willfulness, and reckless indifference to the rights of others.

26. As a result of the above-described wrongful infringement of Plaintiff's rights, she has suffered financial and other damages, including but not limited to substantial physical harm, mental stress and mental anguish.

27. The misconduct described in this Count was under taken by the Defendant Officers within the scope of their employment such that their employer, CITY OF CHICAGO, is liable for those actions.

COUNT III
Failure To Investigate

28. Plaintiff re-alleges and incorporates paragraphs 1-16 as though fully stated herein.

29. As set forth herein, Defendants, CHICAGO POLICE OFFICERS CHERNIK, STAR NO. 3491, and PERAINO, STAR NO. 15396, had a duty and obligation as sworn officers acting under color of law to conduct an investigation into the accident described hereto,

30. The Defendant failed to conduct a valid investigation and falsely arrested and unlawfully detained Plaintiff without justification and without probable cause.

31. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others, and specifically, the rights of the Plaintiff.

32. As a result of that above-described wrongful infringement of Plaintiff's rights, Plaintiff suffered damages, including but not limited to physical harm, mental distress and anguish.

PRAYER FOR RELIEF

33. Plaintiff, KELLY JAMES, respectfully requests that the Court:

(a) Enter judgment in her favor and against Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR NO. 3491 and CHICAGO POLICE OFFICER PERAINO, STAR NO. 15396.

(b) Award compensatory damages in her favor and against Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR NO. 3491 and CHICAGO POLICE OFFICER PERAINO, STAR NO. 15396.

(c) Award attorneys' fees against Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR NO. 3491 and CHICAGO POLICE OFFICER PERAINO, STAR NO. 15396.

(d) Award punitive damages against Defendants, CHICAGO POLICE OFFICER CHERNIK, STAR NO. 3491 and CHICAGO POLICE OFFICER PERAINO, STAR NO. 15396.

(e) Grant any and all further relief that this Court deems to be just and appropriate under the circumstances.

JURY DEMAND

34. Plaintiff, KELLY JAMES, demands trial by jury under the Federal Rule of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

KELLY JAMES,

DATED: May 19, 2014

By: /s/ Paul Duffy
One of her attorneys

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